761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: October 12, 2007

OFFICE CORRESPONDENCE

FILE NO. SH2178932

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**
DEPUTY THOMAS DRAKE, #[redacted]
DEPUTY BILLY COX, #[redacted]
DEPUTY CHARLES MOYLAN, #[redacted]
DEPUTY MICHAEL MARION, #[redacted]
DEPUTY RICHARD WELCH, #[redacted]
SANTA CLARITA STATION

On August 28, 2006, at approximately 2037 hours, Santa Clarita Station deputies responded to a remote area of the Cal Tico Oil Company, located in Canyon County regarding a "Man with a Gun call / 415D." The land is owned by the oil company and has machinery, equipment, vehicles, and several parked recreational trailers where people live.

Deputies Ben Wong, Unit 63 PMs, Michael Marion, Unit 61B PMs, and Thomas Drake, Unit 61 PMs, contacted the witnesses and were told that they saw the woman's [redacted] (Suspect Andre Garcia) sitting in front of the trailer they lived in, drunk and holding a pistol. He threatened to shoot them, and they left the location to call deputies for help. As the deputies were speaking to the witnesses, Sergeant Gary Parker, Unit 60S PMs, arrived.

Sergeant Parker tactically discussed the incident with the Deputies and planned to locate the trailer, contain it, and detain Suspect Garcia. Deputies requested an Aero Unit to assist, but they were busy in Lancaster

As deputies arrived at the trailer to contain the area, Deputies Moylan, Cox, and Drake saw Suspect Garcia sitting in a lawn chair in front of the trailer, slumped over as if he was asleep. The deputies used the radio car's PA system to order Suspect Garcia to raise his hands. Additional deputies arrived, and Suspect Garcia eventually began waving his hands at the deputies and said, "Fuck you." Suspect Garcia then stood up, placed his hands at his side and faced the deputies. The deputies immediately saw a black handgun in the middle of his waistband and yelled out that he had a gun.

The deputies repeatedly ordered Suspect Garcia, in English and Spanish, to raise his hands over his head, but he would not comply. Suspect Garcia reached into his waistband and pointed his weapon at the deputies. Fearing for their lives, Deputies Drake, Cox, Moylan, Marion, and Welch fired fourteen rounds from three shotguns and two handguns, striking Suspect Garcia. The Suspect dropped his pistol inside a nearby tub as he was falling down.

After the shooting, deputies approached Suspect Garcia to check on his welfare and to determine if anyone else was inside the trailer. Suspect Garcia had several gunshot wounds to his body and the Fire Department was requested to respond to their location. Since they were advised by SCC that the Fire Department was delayed behind a train, Deputy Wong render first-aid to Suspect Garcia. Deputy Wong checked the Suspect's vital signs and did not locate a pulse or heartbeat. Paramedics arrived and pronounced Suspect Garcia dead at 2138 hours.

The Deputies located a Daisy Powerline BB gun, resembling a forty-five caliber "Smith and Wesson" automatic pistol, inside the tub in front of the RV trailer.

On October 11, 2007 the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Thomas Drake #[redacted] was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Billy Cox #[redacted] was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Charles Moylan #[redacted] was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Michael Marion #[redacted] was reasonable and necessary and in compliance with Department policy.

MMP § 3-01/025.00, Use of Force, MMP § 3-01/025.30, Use of Firearms and Deadly Force, and MMP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Richard Welch #[redacted] was reasonable and

necessary and in compliance with Department policy. 

MMP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

Johnny G. Jurado, Commander

JGJ:MOT:mt

TABLE OF CONTENTS
SH2178932

OFFICER INVOLVED SHOOTING FORM

INVESTIGATIVE SUMMARY

EXHIBITS

- **A** Homicide Bureau Investigation Book
- **B** Photographs of the Scene, Suspect's weapon and Maps of the Scene
- **C** Deputy Tomas Drake's' Signed Maps of the Scene
- **D** Deputy Billy Cox's Signed Maps of the Scene
- **E** Deputy Charles Moylon's Signed Maps of the Scene
- **F** Deputy Michael Marion's Signed Maps of the Scene
- **G** Deputy Richard Welch's Signed Maps of the Scene
- **H** Sheriff's Radio Traffic from the Officer Involved Shooting

MISCELLANEOUS DOCUMENTS

- Admonition forms
- District Attorney's "Letter of Opinion"
- In-Service
- Incident Detail of Call
- Training and Range Qualification Records

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
08/28/2006	Santa Clarita Sheriff's Station	☐	☒

Incident Information

URN: 006-14515-0627-013	Date: 08/28/2006 Time: 2115 Hours
City or Station: Santa Clarita	Nature of Incident: Deputies respond to a Man with a Gun call. Contact suspect and he displays a gun. Deputies order the suspect to drop the gun. Suspect become resistive and points the gun at the deputies. Deputies shoot the suspect. Suspect is shot & killed
Location: 2550 Sierra Highway	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, Residence, **(Rural)** (circled), School, Street, Other: Dirt Lot

Lighting (*circle only one*): **(Darkness)** (circled), Daylight, Other, Street Lights

Weather (*circle only one*): **(Clear)** (circled), Cloudy, Fog, Rain

Distance: 44 Feet

Incident Type (*circle one or more*): Accidental, **(Armed Person)** (circled), Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other:

Initiated by (*circle only one*): Arrest Warrant, **(Call)** (circled), Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **(Routine Patrol)** (circled)

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
14	0

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Parker	Gary		EM **(PM)** Day	**(Regular)** Overtime Off Duty
[redacted]	Wong	Ben		EM **(PM)** Day	**(Regular)** Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip [redacted]	Work Ph	[redacted]	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip [redacted]	Work Ph	Home Ph	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip [redacted]	Work Ph	Home Ph	

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Parker	Gary		**(On Duty)**, **(Present during shooting)**, **(Witness to shooting)**, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Petz	William	s.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Myers	Cortland	

PSTD Use Only

SH # SH278932

SH-R-438A rev. 3/97

See Reverse

Officer Involved Shooting

URN: 006-14515-0627-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
08/28/2006	2230		

Employee #	Last Name	First Name	M.I
[redacted]	Jennings	Rick	
[redacted]	Carr	Tim	
[redacted]	McCray	Leonard	

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E1	S	FS	IT	12	Y	Y	GS	CH
E2	S	FS	IT	12	Y	Y	GS	CH
E3	S	FH	SW	45	Y	Y	GS	CH
E4	S	FS	IT	12	Y	Y	GS	CH
E5	S	FH	BR	9	Y	Y	GS	CH
S	E1	FO	ZZ	WW			NN	
S	E2	FO	ZZ	WW			NN	
S	E3	FO	ZZ	WW			NN	
S	E4	FO	ZZ	WW			NN	
S	E5	FO	ZZ	WW			NN	

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 006-14515-0627-013

Involved Employee

E 1

Employee # [redacted]	Last Name: Drake	First Name: Thomas	M.I.: A
Sex: M Race: W	Rank: Deputy	Unit Assignment: Santa Clarita	Work Assignment (Unit #, Module, etc.): 61
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): **Regular** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☒	Coroner Case #: 2006-06707 Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest**	Other Factors:
Age: [redacted] Height: 601 Weight: 235			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 1 Directed Force: [redacted]
Weapons Fired Brand: Ithaca Caliber: 12 # Shots: 1	Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E 2

Employee # [redacted]	Last Name: Cox	First Name: Billy	M.I.:
Sex: M Race: W	Rank: Deputy	Unit Assignment: Santa Clarita	Work Assignment (Unit #, Module, etc.): 61
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): **Regular** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☒	Coroner Case #: 2006-06707 Interviewed? ☒
Hrs of sleep prior to shooting: 5	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest**	Other Factors:
Age: [redacted] Height: 511 Weight: 210			
Range Qualification Date: 08/07/06	PPC Qualification Date: 08/07/06	Laser Training Date: 11/21/95	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Ithaca Caliber: 12 # Shots: 4	Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E 3

Employee # [redacted]	Last Name: Moylan	First Name: Charles	M.I.:
Sex: M Race: W	Rank: Deputy	Unit Assignment: Santa Clarita	Work Assignment (Unit #, Module, etc.): 61A
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): **Regular** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☒	Coroner Case #: 2006-06707 Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest**	Other Factors:
Age: [redacted] Height: 602 Weight: 255			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: S/W Caliber: 45 # Shots: 4	Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Involved Employee Information

URN: 006-14515-0627-013

Involved Employee

E 4

Employee # [redacted]	Last Name: Marion	First Name: Michael	M.I.
Sex: M Race: W	Rank: Dputy	Unit Assignment: Santa Clarita	Work Assignment (Unit #, Module, etc.): 61B
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☒	Coroner Case # 2006-06707 — Interviewed? ☒
Hrs of sleep prior to shooting: 7	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 509	Weight: 175		
Range Qualification Date: [redacted]		PPC Qualification Date: [redacted]	Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Ithaca	Caliber: 12 # Shots: 1	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E 5

Employee # [redacted]	Last Name: Welch	First Name: Richard	M.I.
Sex: M Race: W	Rank: Deputy	Unit Assignment: Santa Clarita	Work Assignment (Unit #, Module, etc.): 66
ShiftTime (*circle only one*): EM (PM) Day	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☒	Coroner Case # 2006-06707 — Interviewed? ☒
Hrs of sleep prior to shooting: 6	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 511	Weight: 190		
Range Qualification Date: [redacted]		PPC Qualification Date: [redacted]	Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber: 9 # Shots: 4	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # — Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber: # Shots:	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN: 006-14515-0627-013

Suspect Information

S 1

Last Name: Garcia		First Name: Andres	M.I.
AKA Last Name: None		First Name	M.I.
Sex: M Race: H	Street Address: [redacted]	City [redacted]	[redacted] Zip Code: [redacted]
Work Phone [redacted]	Home Ph[redacted]	Social Security #[redacted]	Dr[redacted]
Age: 58 D.O.B. 05/12/1848	Height: 505 Weight: 165	FBI # [redacted]	CII # [redacted]
Booking # 8642858	Primary Charge: 245 (A) (1) PC	Secondary Charge: None	
Coroner Case? ☒	Coroner Case # 2006-06707	Intoxication/Drug Usage? ☒	Substance Used: Alcohol
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: None		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

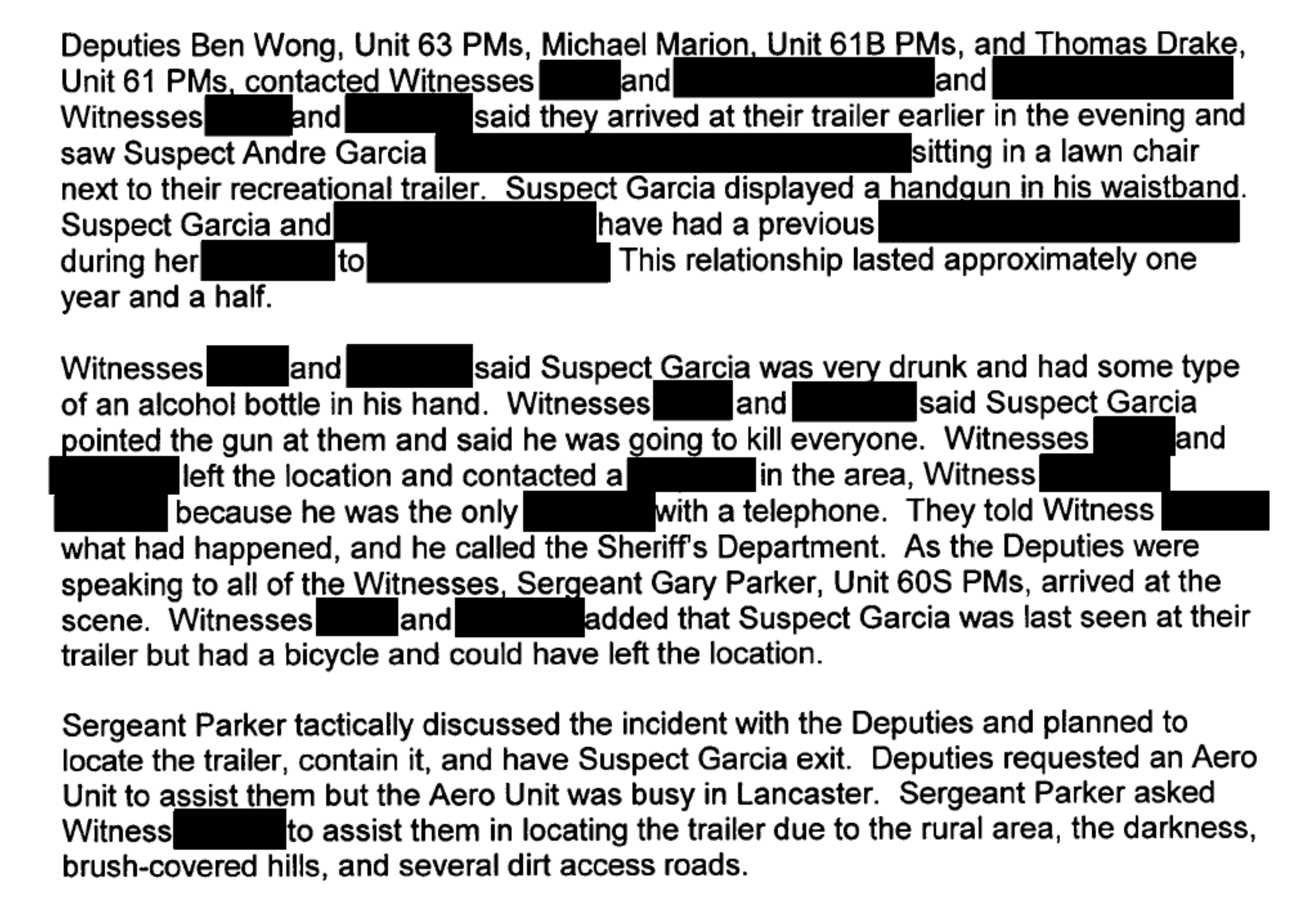
Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

INVESTIGATIVE SUMMARY
DEPUTY-INVOLVED-HIT SHOOTING
IAB SH2178932
URN 006-14515-0627-013

On August 28, 2006, at approximately 2230 hours, Sergeants Tim Carr and Leonard McCray, and Lieutenant Ricky Jennings of Internal Affairs Bureau responded to 25501 Sierra Highway, Canyon County (Santa Clarita Sheriff's Station area) regarding a Deputy-Involved Hit Shooting. Sheriff's Homicide Bureau Investigators Sergeant Richard Tomlin and Detective Traci Gonzales responded to the location and took control of the criminal investigation.

Earlier that evening, at approximately 2037 hours, Santa Clarita Station deputies responded to a remote area of the Cal Tico Oil Company, located at 25501 Sierra Highway in Canyon County regarding a "Man with a Gun call." They were also advised that the man was drunk. The area is a remote parcel of land off of Sierra Highway. The land is owned by the oil company and has machinery, equipment, vehicles, and several parked recreational trailers where people live.



Deputies Ben Wong, Unit 63 PMs, Michael Marion, Unit 61B PMs, and Thomas Drake, Unit 61 PMs, contacted Witnesses [redacted] and [redacted] and [redacted] Witnesses [redacted] and [redacted] said they arrived at their trailer earlier in the evening and saw Suspect Andre Garcia [redacted] sitting in a lawn chair next to their recreational trailer. Suspect Garcia displayed a handgun in his waistband. Suspect Garcia and [redacted] have had a previous [redacted] during her [redacted] to [redacted] This relationship lasted approximately one year and a half.

Witnesses [redacted] and [redacted] said Suspect Garcia was very drunk and had some type of an alcohol bottle in his hand. Witnesses [redacted] and [redacted] said Suspect Garcia pointed the gun at them and said he was going to kill everyone. Witnesses [redacted] and [redacted] left the location and contacted a [redacted] in the area, Witness [redacted] because he was the only [redacted] with a telephone. They told Witness [redacted] what had happened, and he called the Sheriff's Department. As the Deputies were speaking to all of the Witnesses, Sergeant Gary Parker, Unit 60S PMs, arrived at the scene. Witnesses [redacted] and [redacted] added that Suspect Garcia was last seen at their trailer but had a bicycle and could have left the location.

Sergeant Parker tactically discussed the incident with the Deputies and planned to locate the trailer, contain it, and have Suspect Garcia exit. Deputies requested an Aero Unit to assist them but the Aero Unit was busy in Lancaster. Sergeant Parker asked Witness [redacted] to assist them in locating the trailer due to the rural area, the darkness, brush-covered hills, and several dirt access roads.

Witness [redacted] led Sergeant Parker and the Deputies to a large dirt plateau area. Sergeant Parker and the Deputies parked their vehicles on the dirt plateau area, approximately three hundred feet west from the edge of the ridge. Witness [redacted] stayed inside the radio car during the entire incident. The dirt plateau area had several parked vehicles, recreational trailers, and a semi truck tractor trailer. The Deputies searched the dirt plateau area where the parked vehicles were located but did not find the Suspect. Sergeant Parker requested additional deputies to assist with this operation. Deputies Charles Moylan and Billy Cox, Unit 61A PMs (unmarked car) arrived at the scene to assist.

While on the east end of the dirt plateau ridge, Sergeant Parker and the Deputies looked below toward the east and saw the RV trailer where the Suspect was last seen. The trailer was parked on a vacant dirt access road. The front portion of the trailer was facing north. The trailer was parked against the ridge, with the entrance to the trailer facing east and the backside facing west. Sergeant Parker and the deputies illuminated the back portion of the trailer without the door with their flashlights but were unable to locate the Suspect. Sergeant Parker and the Deputies yelled down to the trailer, identified themselves, and requested the suspect to step out, but no one responded.

After no response from anyone at the trailer site, Sergeant Parker and the Deputies were unsure if the Suspect was still at the location. The RV trailer location was extremely dark, and it was difficult to see without the use of a flashlight. Sergeant Parker and the Deputies saw a dirt access road toward the south of their location. The road appeared to lead to the RV trailer. Sergeant Parker directed Deputies Moylan and Cox to follow the dirt access road and determine if it led to the trailer. Sergeant Parker further directed them to visually monitor the trailer and contain the location if possible.

Deputies Moylan and Cox drove east on the dirt road, and then turned north as the roadway veered in that direction, their vehicle headlights immediately illuminated the rear of the RV trailer. The Deputies parked their vehicle along the east portion of the dirt access road. Deputy Drake followed behind the Deputies in his radio car and parked his vehicle along the west portion of the access road. As the Deputies parked their vehicles, they positioned themselves behind their doors and saw the Suspect sitting in a lawn chair in front of the trailer next to the door. The chair was facing west, toward the door, and the Suspect was slumped over in the chair as if he was asleep.

Using Sheriff's public address system, Deputies Moylan and Cox ordered the Suspect, in English and Spanish, to stand up with his hands raised. At first the Suspect did not respond, but then as he was sitting in the chair, he began waving his hands at the Deputies and said, "Fuck you." Deputies Moylan and Cox were approximately forty-five feet south of the Suspect. Deputy Drake was approximately seventy feet south of the Suspect.

As the Deputies continuously ordering the Suspect to raise his hands in the air and walk over to their location, Deputy Marion arrived at the scene and positioned himself at the front passenger's door of Deputy Drake's radio car. Deputy Welch also arrived and positioned himself at the front passenger's door, next to Deputy Cox.

Suspect Garcia then stood up, placed his hands at his side and faced the Deputies. The Deputies immediately saw a black handgun in the middle of his waistband and yelled out that the Suspect had a gun. The Deputies also broadcasted over the Sheriff's Duplex Patch that the Suspect had a gun. Sergeant Parker arrived at the scene and positioned himself behind the radio car. Sergeant Parker saw that four to five Deputies had their weapons pointed at the Suspect.

The Deputies repeatedly ordered the Suspect, in English and Spanish, to raise his hands over his head, but the Suspect would not comply. Within a matter of minutes the Suspect reached into his waistband and pointed his weapon at the Deputies. Fearing for their lives, the Deputies fired fourteen rounds from their duty weapons (three shotguns and two handguns), striking the Suspect. As the Deputies were firing their weapons at the Suspect, Deputy Wong was arriving at the scene and heard the gunfire. The Deputies stopped shooting and saw the Suspect lying on the ground.

After confirming all of the Deputies were unharmed, Sergeant Parker directed the Deputies to approach the Suspect's location to check on his welfare and to determine if anyone else was inside the trailer. Sergeant Parker and the Deputies checked the Suspect and saw that he had several gunshot wounds to his body. The Deputies requested the Fire Department to respond to their location to render aid to the Suspect. The Deputies were advised by Sheriff's Communication Center that the Fire Department was delayed behind a train. Deputy Wong was designated to render first-aid to the Suspect. Deputy Wong checked the Suspect's vital signs and did not locate a pulse or heartbeat.

The Deputies located a Daisy Powerline BB gun, resembling a forty-five caliber "Smith and Wesson" automatic pistol, inside a black tub in front of the RV trailer. The Suspect dropped his pistol inside the tub as he was falling down. The tub was approximately three to four feet away from the Suspect. Los Angeles County Fire Department, Engine #104, responded to the location under the command of Captain Chavez. Paramedics Demattei and Johnson pronounced Suspect Garcia dead at 2138 hours.

> **IAB Note:** Refer to **Exhibit A** inside the Homicide Book for additional information. Also refer to **Exhibit H** for the Sheriff's radio traffic from the incident.

INVOLVED PERSONNEL:

Deputy Thomas Drake #[redacted]
Field Operations Region I
Santa Clarita Sheriff's Station

Employee Work History:

Date of Employment	01/27/1985
Date Assigned to Patrol	[redacted]
Completed Patrol Training	[redacted]
Prior Shooting Incident(s)	08/31/2001 (1)
Prior Force Incidents	[redacted]

Deputy Billy Cox #[redacted]
Field Operations Region I
Santa Clarita Sheriff's Station

Employee Work History:



Date of Employment	06/25/1990
Date Assigned to Patrol	[redacted]
Completed Patrol Training	[redacted]
Prior Shooting Incident(s)	[redacted]
Prior Force Incidents	[redacted]

Deputy Charles Moylan #[redacted]
Field Operations Region I
Santa Clarita Sheriff's Station

Employee Work History:



Date of Employment	06/15/1988
Date Assigned to Patrol	[redacted]
Completed Patrol Training	[redacted]
Prior Shooting Incident(s)	[redacted]
Prior Force Incidents	[redacted]

Deputy Michael Marion #[redacted]
Field Operations Region I
Santa Clarita Sheriff's Station

Employee Work History:

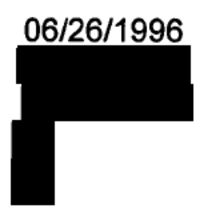
Date of Employment — 04/02/1998
Date Assigned to Patrol — [redacted]
Completed Patrol Training
Prior Shooting Incident(s)
Prior Force Incidents



Deputy Richard Welch #[redacted]
Field Operations Region I
Santa Clarita Sheriff's Station

Employee Work History:

Date of Employment — 06/26/1996
Date Assigned to Patrol — [redacted]
Completed Patrol Training
Prior Shooting Incident(s)
Prior Force Incidents



SUSPECT:

Andres Garcia (A.K.A. Juan Perez) Male Hispanic 05/12/1948

Suspect Garcia criminal background. A check of the CCHRS (Consolidated Criminal History Reporting System) revealed that Suspect Garcia (CII# [redacted] has been [redacted] Suspect Garcia has been [redacted] Refer to the CCHRS and RAPS printouts included under **Exhibit A** inside Homicide Book, **pages 68-87.**

WITNESSES:

Sworn:

Sergeant Gary Parker [redacted]
Field Operations I
Santa Clarita Sheriff's Station

Deputy Ben Wong [redacted]
Field Operations I
Santa Clarita Sheriff's Station

Civilian:

[redacted]

INJURIES:

Suspect:

Andres Garcia

Suspect Garcia sustained 31 gunshot wounds from a combination of handgun and shotgun rounds to the following areas:

Left arm, left leg, right arm, right leg and torso. Suspect Garcia died at the scene from his gunshot wounds. Refer to Homicide Book, **Exhibit A**, **pages 88-123** for the Coroner's Autopsy report.

Deputies:

No deputies were injured during the officer involved shooting.

Civilians:

No civilians were injured during the officer involved shooting.

PHYSICAL EVIDENCE:

Refer to Homicide Book, **Exhibit A, pages 47-58** for Physical Evidence gathered at the crime scene and processed by the Sheriff's Crime Lab. The Crime Lab report is located on pages **47-48** of the same exhibit. The crime scene sketches are located in the Homicide Book, **Exhibit A, pages 49-50**. Refer to the photographs of the crime scene in **Exhibit B**.

HOMICIDE INVESTIGATORS OBSERVATIONS:

The physical evidence at the shooting scene, location of the Suspect's body and expended rounds appear to be consistent with the Deputies' versions of the event. Refer to Homicide Book, **Exhibit A**, pages **12-23** for Homicide's Supplemental Report of the scene. Also, refer to **Exhibit B** for photographs of the scene. At the scene a Daisy Powerline Model #93 C.O.2 BB pistol was located inside a black tub, approximately three to four feet from Suspect. The BB pistol resembled a Smith and Wesson Automatic weapon. Refer to **Exhibit A**, Homicide Book, **page 21** for the items recovered from the suspect at the scene

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Thomas Drake

Firearm: Ithaca 12 gauge Shotgun, serial #[redacted] One (1) round of duty issued 12 gauge ammunition was fired. Drake carried his weapon with four (4) shotgun round in the underbarrel tube magazine and no rounds in the chamber. Following the shooting, he had three (2) rounds in the underbarrel tube magazine and one (1) in the chamber. Refer to Crime Lab examination of Drake's weapon in **Exhibit A**, Inside Homicide Book **pages 43-46**, lab receipt #J802653.

Deputy Charles Moylan

Firearm: Smith and Wesson 45 automatic, serial #[redacted] Four (4) rounds of duty issued 45 caliber ammunition were fired. Moylan carried his weapon with eight (8) rounds in the magazine and one (1) in the chamber. Following the shooting, he had four (4) rounds in the magazine and one (1) round in the chamber. Refer to Crime Lab examination of Moylan's weapon in **Exhibit A**, Inside Homicide Book **pages 43-46**, lab receipt #J802651.

Deputy Billy Cox

Firearm; Ithaca 12 gauge Shotgun, serial [redacted] Four (4) rounds of duty issued 12 gauge ammunition were fired. Cox carried his weapon with four (4) shotgun round in the underbarrel tube magazine and no rounds in the chamber. Following the shooting, he had no rounds in the underbarrel tube magazine and no rounds in the chamber. Refer to Crime Lab examination of Moylan's weapon in **Exhibit A,** Inside Homicide Book **pages 43-46**, lab receipt #J802654.

Deputy Michael Marion

Firearm; Ithaca 12 gauge Shotgun, serial [redacted] One (1) round of duty issued 12 gauge ammunition was fired, one (1) round misfired. Marion carried his weapon with four (4) shotgun round in the underbarrel tube magazine and no rounds in the chamber. Following the shooting, he had two (2) rounds in the underbarrel tube magazine and no rounds in the chamber. Refer to Crime Lab examination of Marion's weapon in **Exhibit A**, Inside Homicide **Book pages 43-46**, lab receipt #J802673.

Deputy Richard Welch

Firearm; Beretta 92F, 9mm, Luger Caliber serial [redacted] Four (4) rounds of duty issued 9mm ammunition were fired. Welch carried his weapon with fifteen (15) rounds in the magazine and one (1) round in the chamber. Following the shooting, he had eleven (11) rounds in the magazine and one (1) round in the chamber. Refer to the Crime Lab examination of Welch's weapon **Exhibit A**, from Homicide Book, lab receipt #J802652, **pages 43-46**.

WEAPONS USED BY SUSPECT:

Suspect Garcia was in possession of a Daisy Poweline Model 93 CO2 BB Pistol, silver frame and black grips. The pistol had one CO-2 cartridge and one magazine. Refer to **Exhibit A,** inside Homicide Book, **pages 15 and 21** for the weapon recovered from the suspect. Also refer to **Exhibit B** for a photograph of the weapon.

PROPERTY DAMAGE:

There were three bullet strikes located on the water tank which was north of the RV trailer. There were also three bullet strike makes located on miscellaneous items in front of the RV trailer. There were three bullet strikes on the RV trailer. Refer to **Exhibit A,** inside Homicide Book, **page 13-17**.

CRIMINAL INVESTIGATORS and CHARGES FILED:

Investigator's Name	Sergeant Richard Tomlin #[redacted](Homicide Bureau) Detective Traci Gonzales #[redacted](Homicide Bureau)
Court	Suspect Andres Garcia (Deceased)
Charges Filed	None
Court Date	None
Case Number	None

LIGHTING OR WEATHER CONDITIONS:

The weather was clear, dry and warm, approximately 70 degrees at the time of the shooting (approximately 2115 hours). The scene was extremely dark and the only light was from the headlights and spotlights from the two Sheriffs' Department vehicles. Refer to **Exhibit A**, inside Homicide Book, **pages 22-23.**

INVOLVED EMPLOYEES' STATEMENTS:

Deputies Drake, Cox, Moylan, Marion, and Welch were interviewed by Homicide Investigators Sergeant Richard Tomlin and Detective Traci Gonzales on Tuesday, August 29, 2006. Refer to **Exhibit A**, inside Homicide Book, **pages 25-31,** for a summary of that interview. The following summaries are from Sheriff's Homicide Investigators interview and from an Internal Affairs Bureau interview conducted by Sergeants Tim Carr and Steve Flamm.

Deputy Thomas Drake

On Monday, August 28, 2006, Deputy Drake was working a one person patrol car, Unit 61 PM Shift, [redacted] hours. Deputy Drake was assigned as an assisting unit to a "Man with a Gun" call. Deputies Drake, Marion, and Wong, along with Sergeant Parker arrived at the scene and contacted the Witnesses [redacted] and [redacted] and [redacted] After learning the Suspect was armed with a handgun and was possibly still at or around Witnesses [redacted] and [redacted] RV trailer, the Deputies requested a Sheriff's Aero unit to the scene, but they were busy in Lancaster.

The Deputies and Sergeant Parker formed a tactical plan to locate the trailer, contain it, and have the Suspect exit. Since the RV trailer was on a dark remote parcel of land with no lights, brush covered hills and various oil pumps and equipment, along with several dirt access roads, Sergeant Parker asked Witness [redacted] to guide him and the Deputies to a location near the RV trailer.

Deputies Drake, Marion and Wong, along with Sergeant Parker, arrived at a dirt ridge area which was above the RV trailer location. On the ridge, the Deputies saw old trucks, cars and a lot of junk. The Deputies checked the area for the Suspect, but did not locate him. As the Deputies were checking the locations, Deputies Moylan and Cox arrived in an unmarked unit. Deputy Drake said Witness [redacted] told them that there was a dirt access road south of their location, which led to the RV trailer where the Suspect was last seen. Sergeant Parker directed Deputies Moylan and Cox to drive their vehicle down the access road and determine if it led to the RV trailer. Sergeant Parker directed Deputies Moylan and Cox to verify if they could obtain a visual on the RV trailer and illuminate it with their headlights and spotlights.

Deputy Drake said he followed Deputies Moylan and Cox down the dirt road because he was driving a marked black and white Sheriff's radio car. He left the ridge area approximately forty seconds to a minute after they had left. Deputy Drake drove down the dirt access road and turned left along the east side to the access road. Deputy Drake said the dirt road was in terrible shape and it was extremely hard to maneuver the vehicle on dirt. Deputy Drake parked his radio car adjacent to Moylan's and Cox's Vehicle. Prior to driving down to the location, Deputy Drake had placed his Department shotgun next to him as he was driving. However, he did not cycle a round into the chamber.

Deputy Drake's headlights illuminated the RV trailer, which had a dark canopy attached to the front, extending approximately ten feet east of the RV trailer. The canopy drooped in the middle portion and was less than eight feet above the ground. As Deputy Drake arrived on scene, he heard a deputy announce over the Sheriff's radio, that they had located the Suspect sitting in a chair.

IAB Note: Refer to **Exhibit H** for the Sheriff's radio traffic of the incident.

As Deputy Drake located the Suspect's position, the Suspect stood up and had a large semi-automatic handgun inside his waistband.

IAB Note: Refer to **Exhibit B** for Deputy Drake's map of the scene.

Deputy Drake saw the butt of the handgun grips facing toward the Suspect's right hand. Deputy Drake exited his patrol car and positioned himself behind his driver's door. He placed the shotgun inside his open window and used his door as cover. He also saw several old refrigerators east of his location that he could use as cover. Deputy Drake heard Deputies Cox and Moylan giving the Suspect commands, in English and Spanish, to stand up and place his hands in the air. The Suspect was extremely resistive, and was yelling at the Deputies, "Fuck you." The Suspect then placed both of his hands in the air and stuck out both middle fingers. He was also waving his hands in the air as if to say, "leave me alone, go away."

The suspect's speech was slurred and he was very slow and lethargic with his movements. Deputy Drake believed the Suspect was drunk. The Suspect would yell profanities at the Deputies and then begin laughing out of control. During this time, Deputy Marion arrived and positioned himself behind the passenger door of Deputy Drake's radio car. Deputy Marion placed his Department issued shotgun in the wedge of the door and the door frame.

Sergeant Parker arrived about the same time as Deputy Marion. Sergeant Parker stayed behind the radio car and managed the scene. Sergeant Parker requested an AR-15 rifle over the Sheriff's radio. Deputy Drake said sometime during this incident, Deputy Welch arrived and positioned himself next to the unmarked vehicle. Deputy Drake never saw Deputy Wong prior to or during the shooting.

Deputy Drake said as the Deputies continued to order the Suspect to place his hands in the air, the Suspect grabbed the grips of the handgun with his right hand, pulled the handgun out of his waistband in an aggressive manner, with a weird kind of smile and in an aggressive nature and pointed it at the Deputies. Deputy Drake said in fear for his life, he pulled on the trigger of the shotgun and fired one round at the Suspect. Deputy Drake said as he chambered to reassess, he saw the Suspect fall to the ground. Deputy Drake's backdrop was the dirt hill behind the RV trailer and he was approximately seventy feet south of the Suspect.

Deputy Drake said the gunfire lasted two to three seconds. After the shooting, Deputy Drake heard Deputy Welch broadcast over the Sheriff's radio that an officer involved shooting had occurred, the Suspect was down, and he requested the Fire Department rescue squad to respond.

Sergeant Parker checked and made sure all of the Deputies were unharmed and then he and Deputy Drake formed a plan to check on the Suspect and clear the trailer. Sergeant Parker told some Deputies to watch the Suspect and other Deputies to watch the RV trailer. Deputy Drake was unsure which Deputies were assigned to each detail. Deputy Drake was assigned to watch the Suspect who was slumped to his left next to a fire pit. Deputy Drake saw the Suspect bleeding from his front torso. Deputy Drake thought Deputy Marion checked the Suspect's vital signs and determined that he had no pulse.

Deputy Drake saw the Suspect's handgun inside a dark box, approximately four feet away from the Suspect's body. Deputy Drake believed the handgun was authentic at the time of the shooting. Several hours after the shooting he was advised that the weapon was a BB gun pistol.

> IAB Note: Refer to **Exhibit A**, inside Homicide book for Deputy Drake's Homicide interview, **pages 28-29.**

Deputy Billy Cox

On Monday, August 28, 2006, Deputy Cox was working a two-person unmarked car Unit 61A PM Shift, [redacted] hours with Deputy Charles Moylan. Deputy Cox was the bookman and Deputy Moylan was the driver. Deputy Cox and Deputy Moylan responded to the scene regarding a back up request. Deputy Cox and Deputy Moylan arrived at the ridge area which was above the Suspect's location. Deputy Cox remembered seeing Sergeant Parker, Deputy Wong, and two other Deputies at the ridge area.

Sergeant Parker told Deputies Cox and Moylan the Suspect was possibly armed with a handgun and may be inside a trailer below the ridge. Sergeant Parker told them that Aero had been requested, but they were busy in another area. Sergeant Parker told them to illuminate the trailer and verify if the Suspect was around the area and, if possible, contain the location.

Prior to driving down the dirt road, Deputy Cox deployed his shotgun. Deputies Cox and Moylan drove down to the Suspect's location, turned north on the access road and then veered to the west of the road. The area was extremely dark, and Deputy Cox could only see in front of the headlights. Deputy Cox saw miscellaneous junk and debris in front of the RV trailer. Deputy Cox then saw a blue or gray canopy attached to the.front of the RV trailer, extending approximately ten feet to the east. The canopy drooped in the middle portion and was less than eight feet above the ground.

As Deputies Cox and Moylan neared the RV trailer, they saw the Suspect sitting in a white plastic chair underneath the canopy, next to the door of the RV trailer. The Suspect was facing west toward the RV trailer door. Deputy Cox illuminated the location further with his Sheriff's vehicle spotlight. Deputies Cox and Moylan parked their Sheriff's vehicle approximately twenty-five to thirty feet away from the location.

IAB Note: Refer to **Exhibit B** for Deputy Cox's map of the location.

Deputy Cox exited the vehicle with his weapon drawn and positioned himself behind the front passenger door. Deputy Moylan exited the vehicle with his weapons drawn and positioned himself behind the driver's side front door. Deputy Cox pointed his shotgun at the Suspect and Deputy Moylan pointed his duty weapon at the Suspect. They ordered the Suspect, in English and Spanish, to show his hands and to stand up. The Suspect did not comply. Deputy Cox said he and Deputy Moylan were able to speak enough Spanish to the Suspect for communication purposes. The Suspect was slumped over with his head down and his legs extended out. Deputy Cox saw his left hand, but his right hand was concealed by his body. As the Deputies were ordering him to show his hands and to stand up, the Suspect raised his head, looked at them and said, "Fuck off, go away," as he moved his left hand around his head. Deputy Cox and Deputy Moylan did not see a gun on or near the Suspect at this time.

Deputy Cox advised over Sheriff's radio that they had located the Suspect and he was uncooperative. Deputies Cox and Moylan continuously ordered the Suspect via their public address system to raise his hands and stand up, but he would not comply. They also yelled out to the Suspect to raise his hands and stand up, but again did not comply.

Deputy Cox estimated the verbal exchange between them and the Suspect lasted a minute. Deputy Cox said the Suspect appeared to be drunk his speech was slurred, and his actions were slow and deliberate. Deputy Cox advised his partner that he was going to retrieve the taser from the trunk of their vehicle due to the Suspect's uncooperative behavior. Deputy Cox grounded his shotgun in the trunk and was now armed with his taser. Deputy Cox advised Deputy Moylan to hold their positions and prepare to assemble an arrest team with additional Deputies. Deputy Cox said he knew additional deputies and Sergeant Parker were responding to their location.

Deputy Cox said after talking to Deputy Moylan about the arrest team, the Suspect stood up and faced them. Deputy Cox immediately saw a large semi-automatic handgun in his waistband. Deputy Cox broadcasted over Sheriff's radio that the Suspect had a gun in his waistband.

> **IAB Note:** Refer to **Exhibit H** for the Sheriff's radio traffic of the incident.

Deputy Cox threw the taser on the passenger seat and ran back to the trunk to retrieve the shotgun. Deputy Cox again positioned himself behind the front passenger door. Deputy Cox said the Suspect was wearing blue jean pants and some type of shirt. The shirt did not cover his gun.

> **IAB Note:** During this time Deputy Marion arrived at the scene and positioned himself at the front passenger's door of Deputy Drake's radio car which was parked along the east side of the dirt access road, adjacent to Deputies Cox and Moylan's unmarked vehicle. Deputy Marion directed Deputies Cox and Moylan to back up their vehicle because of a potential crossfire with himself and Deputy Drake. Deputies Cox and Moylan backed up their vehicle approximately five to seven yards. Their vehicle remained parked at this location during the Officer Involved Shooting. Their vehicle was forty four-feet from the Suspect. Deputy Cox did not remember this incident.

As Deputy Cox was standing behind the front passenger's door with his shotgun aimed at the Suspect, Deputy Welch arrived and tapped him on his right shoulder and said, "I'm on your right." Deputy Cox never looked at Deputy Welch, but he recognized his voice. Deputy Cox said he only remembered Deputies Moylan and Welch at the scene during the shooting. After the shooting, he saw Sergeant Parker, Deputies Drake, Marion, and Wong. Deputies Moylan and Cox again ordered the Suspect to raise his hands but he would not comply.

Deputy Cox said as the Suspect was standing, he had an angry look on his face and said, "Fuck you, " while he was waving his hands in the air. During this time, the Suspect's right hand would move past the gun, but not touch it. Deputy Cox said prior to the shooting, in his mind he believed a shooting was going to occur. Deputy Cox said the Suspect then reached into his waistband with his right hand, retrieved his handgun and canted his wrist enough to where the handgun was pointed at the Deputies. Deputy Cox, in fear for his life, fired four rounds from his Department issued shotgun. After firing the fourth round, he saw the Suspect had fallen to the ground. Deputy Cox grounded the shotgun on the hood of his vehicle, retrieved his duty weapon, and pointed it at the Suspect.

Deputy Cox said his backdrop was approximately a dirt wall approximately thirty to forty feet high, and a portion of the RV trailer. After the shooting, Sergeant Parker contacted Deputies Cox, Moylan and Welch to check if they were unharmed. Sergeant Parker directed Welch and Cox to assist him in clearing the RV trailer and check on the Suspect. Sergeant Parker directed Deputy Welch to cover the Suspect, and he and Deputy Cox would clear the RV trailer. After they cleared the trailer, Deputy Cox said they checked the Suspect for his vital signs and any weapons. Deputy Cox said there was a large black or blue tub near the Suspect and they saw the gun inside.

Deputy Cox said the gun appeared to be a forty-five automatic handgun. He found out later that the weapon was a BB pistol. Deputy Cox said they requested the Fire Department to respond after broadcasting a shooting occurred. Deputy Cox said the Fire Department had an extended arrival time due to multiple wildfires in the area and because they were stuck behind a train. Deputy Cox remembered a Deputy administering first-aid to the Suspect.

> **IAB Note:** Refer to **Exhibit A**, inside Homicide book for Deputy Cox's Homicide interview, **pages 27-28.**

Deputy Charles Moylan

On Monday, August 28, 2006, Deputy Moylan was working a two person unmarked Sheriff's Unit 61A PM Shift, [redacted] hours with Deputy Billy Cox. Deputy Moylan was the driver and Deputy Cox was the bookman. Deputy Moylan and Deputy Cox responded to the scene regarding a back up request. Deputy Moylan and Deputy Cox arrived at the ridge area which was above the Suspect's location. Deputy Moylan saw Sergeant Parker along with Deputies Wong and Marion on the ridge.

Sergeant Parker told Deputies Cox and Moylan the Suspect was possibly armed with a handgun and may be inside a trailer below the ridge. Sergeant Parker told them that Aero had been requested, but they were busy in another area. Sergeant Parker told them to illuminate the trailer and verify if the Suspect was around the area and, if possible, contain the location.

Deputies Moylan and Cox drove their vehicle down the dirt access road and veered to the west side of the roadway. The area was extremely dark, and Deputies Moylan and Cox were only able to see what their high beam headlights illuminated. Deputy Moylan saw the RV trailer was parked along the east side of the access road, with the front portion facing west. Deputy Moylan backed up his vehicle approximately ten to fifteen feet from the RV trailer to obtain a better visual of the front entrance of the trailer. Deputy Moylan said that was the only time he backed his vehicle.

Deputy Moylan said there was junk all around the trailer. Deputy Moylan saw a blue canopy attached to the entrance side of the RV trailer, extending approximately ten feet east of the RV trailer. The canopy drooped in the middle portion and was less than eight feet above the ground. As Deputy Moylan neared the RV trailer, he saw the Suspect sitting in a white plastic chair underneath the canopy, next to the door of the RV trailer. The Suspect was facing west toward the RV trailer door and appeared to be sleeping.

As Deputy Moylan looked at the Suspect, he told Deputy Cox, "It looks like this guy is passed out." After seeing the Suspect, Deputy Moylan backed up his vehicle to gain a better tactical position on the entrance side of the RV trailer. Deputies Moylan and Cox exited their vehicle and stood behind their front doors. Deputy Moylan pointed his duty weapon at the Suspect, and Deputy Cox, pointed the shotgun at the Suspect. Deputy Moylan yelled out to the Suspect saying, "Andres, this is the Sheriff's Department. Put your hands in the air, stand up." Deputy Moylan repeated this statement in Spanish and English numerous times on their public address system and also yelled it out. Deputy Moylan said as he was ordering the Suspect to stand up, Deputy Drake drove down and parked his radio car along the west side of the access road.

Deputy Moylan said as he and his partner were ordering the Suspect to stand up and raise his hands in the air, the Suspect began yelling, "Fuck you" and saying other words that he was unable to recognize. The Suspect waved his hands in the air as if to say, "Get out of here." Deputy Moylan thought the Suspect's actions made him appear to be drunk. The Suspect waved his hands moving them in all different directions, and his speech seemed to be slurred.

Deputy Moylan said it appeared the Suspect was not going to comply with their command, so Deputy Cox walked to the trunk of their vehicle and retrieved a taser. As Deputy Cox repositioned himself at the front passenger door, the Suspect stood up in an aggressive manner, like an old western gunfighter stance, and faced them. Deputy Moylan said the Suspect had his hands extended about two feet from his hips. Deputies Moylan and Cox saw a large handgun inside the Suspect's waistband. Deputy Moylan said he and Deputy Cox yelled out, "Gun," and also broadcasted it over the Sheriff's radio.

IAB Note: Refer to **Exhibit H** for the Sheriff's radio traffic of the incident.

Deputy Cox immediately grounded his taser on the passenger seat and returned to the trunk to retrieve the shotgun. Deputy Cox hurried back and again repositioned himself behind the open front passenger door. Deputy Moylan said Deputies Marion and Welch arrived at this time. Deputy Marion positioned himself at the front passenger door of Deputy Drake's radio car, and Deputy Welch positioned himself next to Deputy Cox.

Deputy Moylan said he requested the AR-15 rifle over the Sheriff's radio. Deputy Moylan continued to order the Suspect to place his hands in the air. Deputy Moylan also heard other Deputies at the scene yelling to the Suspect to put his hands in the air. The Suspect then retrieved his handgun with his right hand and pointed it at the Deputies.

Deputy Moylan said as the Suspect was reaching for the handgun, he heard Deputies yelling, "No, No," several times. Deputy Moylan said he thought the Suspect was going to kill him, so he fired his duty weapon four times at the Suspect. Deputy Moylan said the shooting lasted about three to five seconds. Deputy Moylan heard the loud boom of the shotgun blast and then saw Deputy Cox throw the shotgun on the hood of the vehicle. Deputy Moylan said after the first gunshot round was fired, he didn't hear anything else. Deputy Moylan said as he fired at the Suspect, his backdrop was the dirt hillside. Deputy Moylan was approximately forty to forty-five feet away from the Suspect when he fired his weapon.

Deputy Moylan doesn't remember who formulated a plan to check the Suspect or clear the RV trailer. Deputy Moylan thought that he, along with Deputies Drake, Cox and Sergeant Parker, approached the Suspect and cleared the RV trailer. Deputy Moylan said he remembered someone saying, "Let's make a wide approach to the Suspect's location." Deputy Moylan remembered seeing the Suspect on the ground and that he appeared to be dead. Deputy Moylan thought Deputy Drake checked the Suspect's vital signs, but did not remember if he had a heartbeat or not. Deputy Moylan saw the Suspect's weapon inside a milk crate and realized it was a BB pistol. Deputy Moylan remembered saying, "Oh shit, this guy had a BB gun." Deputy Moylan was unsure who checked the RV trailer, but he looked inside and saw that it was in total disarray.

> IAB Note: Refer to **Exhibit A**, inside Homicide book for Deputy Moylan's Homicide interview, **pages 25-26.**

Deputy Michael Marion

On Monday, August 28, 2006, Deputy Marion was working a one-person patrol car, Unit 61B PM Shift, [redacted] hours. Deputy Marion was one of two assisting units that responded with Deputy Wong to the location.

Deputy Marion was assigned as an assisting unit to a "Man with a Gun" call. Deputies Marion, Drake, and Wong, arrived at the scene and contacted the Witnesses [redacted] and [redacted] and [redacted] A short time later, Sergeant Parker arrived. After learning the Suspect was armed with a handgun and was possibly still at or around Witnesses [redacted] and [redacted] RV trailer, the Deputies requested a Sheriff's Aero unit to the scene, but they were busy in Lancaster.

The Deputies and Sergeant Parker formed a tactical plan to locate the trailer, contain it, and have the Suspect exit. Since the RV trailer was on a dark remote parcel of land with no lights, brush covered hills, and various oil pumps and equipment, along with several dirt access roads, Sergeant Parker asked Witness [redacted] to guide him and the Deputies to a location near the RV trailer. As Deputy Marion was driving to the ridge location, he remembered that he did not load his shotgun.

> **IAB Note:** Deputy Marion had been dispatched to a Code-3 (Robbery Just Occurred call, Tag 241) at the start of his shift and forgotten to load his shotgun. Refer to the **Miscellaneous section** for Deputy Marion's Deputy Daily Worksheet.

When Deputy Marion arrived at the scene, he loaded his shotgun with the first (1) round with duty issued 12 gauge ammunition and the next three (3) rounds with rifle slugs. Deputy Marion loaded his shotgun with three (3) rifle slugs for tactical reasons and potential ambush situations. Deputy Marion believed by loading three rifle slugs into his shotgun he would be able to return more accurate direct fire if the Suspect engaged him and the other Deputies from a distance greater than twenty-five yards away. His shotgun loaded with slugs, Deputy Marion increased the maximum effective range of his weapon beyond thirty yards.

Deputies Marion, Drake, and Wong, along with Sergeant Parker, arrived at a dirt ridge area which was above the RV trailer location. On the ridge, the Deputies saw old trucks, cars and a lot of junk. The Deputies checked the area for the Suspect, but did not locate him. As the Deputies were checking the locations, Deputies Moylan and Cox arrived in an unmarked unit. Deputy Marion said Witness [redacted] told them that there was a dirt access road south of their location, which led to the RV trailer where the Suspect was last seen.

Sergeant Parker directed Deputies Moylan and Cox to drive their vehicle down the access road and determine if it led to the RV trailer. Sergeant Parker directed Deputies Moylan and Cox to verify if they could obtain a visual on the RV trailer and illuminate it with their headlights and spotlights.

Deputy Marion heard over the Sheriff's radio that Deputies Moylan and Cox located the Suspect in front of the RV trailer sitting in a lawn chair. Deputy Marion also heard that the Suspect was not complying with their orders. Deputy Marion said as he was

listening to the Sheriff's radio, he decided to walk down the dirt road and assist Deputies Moylan and Cox. Deputy Marion arrived at the scene and saw Deputies Moylan and Cox along the east side of the access road and saw Deputy Drake alone, along the west side of the access road.

Deputy Marion opened Deputy Drake's front passenger door and positioned himself behind the door with his shotgun pointed at the Suspect. The Suspect was still seated in the chair and was yelling profanities at the Deputies and waving his arms in the air. Deputy Marion heard Sergeant Parker on the duplex patch requesting Aero again and then saw the Suspect stand up and face everyone. Deputy Marion saw a handgun inside the Suspect's waistband. Deputy Marion also saw that Deputy Moylan's and Cox's vehicle appeared to be in a potential crossfire situation, so he ordered them to move back. Deputy Marion said they immediately moved back approximately five to seven yards.

The Suspect was standing and yelling at the Deputies for approximately one minute and then reached into his waistband and retrieved his handgun. It appeared the Suspect paused for a moment as he positioned his right hand on the grip of the handgun. Deputy Marion said he saw the handgun being pointed at him, and in fear for his life and his partners, he shot two rounds from his Department issued shotgun. Deputy Marion shot one round from his shotgun. He attempted to shoot the second round when he saw a small muzzle flash from the barrel of the shotgun and realized his round misfired. Deputy Marion tried to eject that round and feed another round into the chamber but the shotgun jammed. Deputy Marion told Deputy Drake his shotgun had jammed and retrieved his Beretta from his holster. As he checked on the Suspect, he saw the Suspect had fallen to the ground. Deputy Marion said his backdrop was a high dirt hillside, which was behind the RV trailer and he was approximately seventy feet south of the Suspect.

IAB Note: The shotgun showed no indication of malfunction on its part.

After the shooting, the Deputies were making sure everyone was okay. Deputy Marion said Sergeant Parker and several Deputies at the scene of the shooting checked on the Suspect and cleared the RV trailer. Deputy Marion said, "All I really remember after the shooting was being the last guy to walk near the Suspect's body. Deputy Marion remembered the Suspect being in an awkward position and said, "It looked like he had collapsed." Deputy Marion said during the shooting he only saw Deputies Drake, Moylan, and Cox. After the shooting, he saw Sergeant Parker and Deputies Welch and Wong. He discovered later that Sergeant Parker was behind him and Deputy Welch was next to Deputy Cox.

IAB Note: Refer to **Exhibit A**, inside Homicide book for Deputy Marion's Homicide interview, **pages 29-30.**

Deputy Richard Welch

On Monday, August 28, 2006, Deputy Welch was working a two-person patrol car, Unit 66 PM Shift, [redacted] hours. Deputy Welch's partner was removed from their unit to assist with the forest fires in the area. Deputy Welch responded to the "Man with a Gun" call regarding a back-up request by Deputy Wong. Deputy Welch was the last unit to arrive at the scene.

Deputy Welch arrived at the ridge, above the Suspect's location (RV trailer). Deputy Welch contacted Sergeant Parker and was briefed on the incident. Deputy Welch also believed Deputy Drake was at the scene as he was talking to Sergeant Parker. Deputy Welch said he and Sergeant Parker began walking down to the Suspect's location via the dirt access road. Deputy Welch said within a few minutes, he heard over the Sheriff's radio that the Suspect had a gun inside his waistband. Deputy Welch said as he was walking toward the Suspect's location, he heard the Deputies continually ordering the Suspect to put his hands in the air, but he would not comply.

Deputy Welch saw two Sheriff's vehicles parked on the access road. An unmarked Sheriff's vehicle was along the east side of the access road and a Sheriff's radio car was parked along the west side of the access road Deputy Welch positioned himself at the front passenger door on the unmarked vehicle next to Deputy Cox. He saw Deputy Moylan standing behind the front driver's side door. Deputy Welch saw two Deputies standing behind the front driver's and passenger's doors of the radio car. During the incident, he did not know the names of the deputies standing at the doors. He later learned Deputies Drake and Marion were standing behind the driver's and passenger's doors.

As Deputy Welch positioned himself at the passenger's door, he told Deputy Cox, "I am on your right." Deputy Welch was unable to use the passenger's door as cover because there was not enough room for two deputies. Deputy Welch positioned himself outside the passenger's door to the right of Deputy Cox. Deputy Welch said he did not have cover, but he did have concealment due to the darkness. Deputy Welch said he thought about moving to a location with cover, but he didn't have any room on the west side. He thought about moving to the east but did not want to get in the way of the other Deputies, so he stayed.

Deputy Welch said Sergeant Parker was behind a Sheriff's vehicle, but did not know which vehicle. Deputy Welch said he remembered seeing Deputy Wong, but did not know where he was at the time of the shooting. As Deputy Welch was pointing his duty weapon at the Suspect, he heard the Suspect screaming and yelling, "Fuck you." The Suspect also said other words in English and Spanish, but Deputy Welch was unable to recognize the words. Deputy Welch thought the Suspect might have been drunk because of the way he was acting. He did not remember if the Suspect's speech was

slurred. Deputy Welch said as the Suspect was standing, he was facing the Deputies, and he could clearly see a handgun inside the Suspect's waistband.

The Suspect continued to yell and then reached into his waistband, retrieved a handgun, and pointed it at the Deputies. Deputy Welch, fearing for his life, fired three to four rounds at the Suspect from his duty weapon. Deputy Welch saw the Suspect fall down, so he stopped firing and continued pointing his weapon at the Suspect. Deputy Welch estimated he was at the location approximately twenty to thirty seconds before the shooting occurred. Deputy Welch was approximately fifty feet from the Suspect and his backdrop was the dirt embankment behind the RV trailer

Deputy Welch said after the shooting occurred, Sergeant Parker asked if everyone was okay. Deputy Welch broadcasted over Sheriff's radio a shooting had occurred and thought he had also requested the Fire Department to respond for the Suspect. Sergeant Parker directed the Deputies to check on the Suspect and clear the RV trailer. As Deputy Welch approached the trailer, he saw the Suspect lying on the ground. Deputy Welch saw that the Suspect had been shot.

Deputy Welch saw the Suspect's weapon laying next to him. He said it appeared to be a real weapon. Deputy Welch later discovered that the Suspect's weapon was a BB pistol. Deputy Welch also saw Sergeant Parker and Deputy Cox clear the trailer. Deputy Welch said he thought Deputy Wong checked the Suspect's vital signs and it appeared the Suspect had died. Refer to **Exhibit A**, inside Homicide book for Deputy Welch's Homicide interview, **pages 30-31.**

DEPARTMENT WITNESS STATEMENTS:

Sergeant Gary Parker

Sergeant Parker was interviewed by Homicide Investigators Sergeant Randy Semour and Detective Kathleen Gallagher on Tuesday, August 29, 2006. Refer to **Exhibit A,** inside Homicide Book, **pages 33-36** for their summary of that interview. The following summary is from Sergeant Parker's interview with Sheriff's Homicide and an Internal Affairs Bureau interview conducted by Sergeant Tim Carr.

On Monday, August 28, 2006, Sergeant Parker was working Unit 60S. Sergeant Parker heard over Sheriff's radio of a "Man with a Gun" call and assigned himself to the call. Sergeant Parker arrived at the scene and saw Deputies Drake, Wong, and Marion were also at the scene.

Sergeant Parker said Witnesses [redacted] and [redacted] told him and the Deputies that the Suspect appeared to be drunk, entered their trailer, and pointed a gun at them. As Sergeant Parker was listening to the Witnesses explain what happened, he was also thinking tactically about the area. Sergeant Parker found out from the

Witnesses that the area was a rural piece of land, with oil rigs and pumps, along with junked vehicles and RV trailers scattered around. Sergeant Parker saw that the area consisted of various hills covered with brush and trees.

Sergeant Parker requested an Aero unit to assist with locating the RV trailer, but Aero was busy in Lancaster. Sergeant Parker said they needed to find out exactly where the target location (trailer) was. Sergeant Parker's plan was to locate the trailer, obtain a visual on it, and contain it. He also thought he might have to possibly conduct evacuations if people were living near the RV trailer.

Sergeant Parker directed Witness [redacted] to lead him and the Deputies to a ridge area that was elevated and looked down onto the RV trailer where the Suspect was last seen. Sergeant Parker said the plan was to keep Witness [redacted] on the ridge, away from the incident. While on the ridge, Sergeant Parker also saw dilapidated motor homes, junk cars and a lot of miscellaneous pieces of junk. Sergeant Parker directed the Deputies to check the area for the Suspect, but they did not locate him.

After the search was completed, Sergeant Parker looked down below from the ridge and saw a portion of the trailer. Sergeant Parker said it was extremely dark and there were bushes and trees that hid most of the RV trailer. Sergeant Parker said he illuminated a portion of the RV trailer with his flashlight and yelled down to the trailer, identifying himself as a Sheriff's Department sergeant and ordered Suspect Andres to step out. No one responded and he and the Deputies were unsure if the Suspect was still at the location. Sergeant Parker remembered that Witnesses [redacted] and [redacted] had earlier told him that the Suspect had a bicycle and he might have left the location. Witness [redacted] told Sergeant Parker and the Deputies there was a dirt access road just south of their location that led to the RV trailer. Sergeant Parker, believing the Suspect might still be at the location, wanted to have a visual of the RV trailer so he directed Deputies Cox and Moylan to drive down the access road and obtain a visual and contain the location. He also wanted to determine if there were any other RV trailers or people in the area and if he needed to evacuate them.

Sergeant Parker stayed on the ridge and was advised over Sheriff's radio that Deputies Cox and Moylan had located the RV trailer and had illuminated it with their headlights and spotlight. Deputies Cox and Moylan also advised that they had located the Suspect in front of the RV trailer sitting in a lawn chair. Sergeant Parker believed he began walking down to the RV trailer at this time, with Deputy Welch. He said he went to the RV trailer to supervise the Deputies. Sergeant Parker contacted Sheriff's Communication Center to request the duplex patch and again request an Aero unit to their location. The Aero Unit acknowledged the request and broadcasted that they were responding from Lake Los Angles (estimated 20 minutes ETA from their location, per Aero Bureau).

IAB Note: Refer to **Exhibit H**, for Sheriff's radio traffic from the scene.

Sergeant Parker contacted Deputies Cox and Moylan over Sheriff's radio to inquire if they had a stunbag shotgun. Deputy Cox replied, saying he didn't have a stunbag shotgun, but he did have a taser. As Sergeant Parker was walking, he heard Deputy Cox broadcast over Sheriff's radio that the Suspect had a gun in his waistband. Sergeant Parker also heard the Deputies at the scene ordering the Suspect to show his hands.

Sergeant Parker requested over Sheriff's radio for Deputy Wong to retrieve the AR-15 rifle from the Sergeant's vehicle. However, Deputy Wong misunderstood and mistakenly thought Sergeant Parker requested a stunbag shotgun. Sergeant Parker saw Deputies Moylan and Cox positioned in the doorway of their unmarked car, along the west side of the access road. Sergeant Parker saw Deputies Drake and Marion positioned behind the doorway of the front driver's side and passenger's doorway of their radio car.

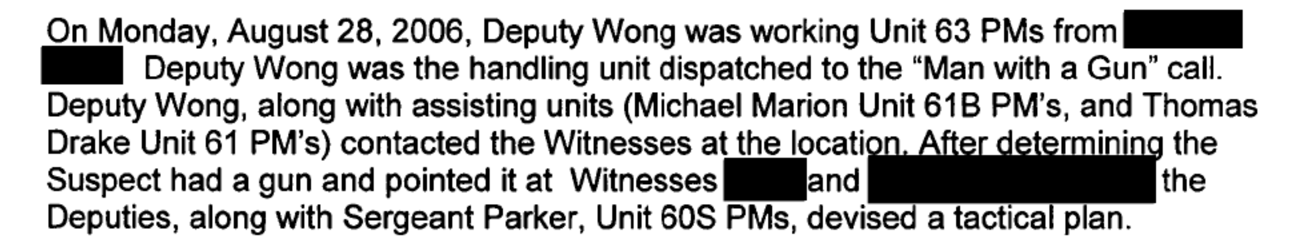
Sergeant Parker took a position of cover behind the rear driver's side door of Deputy Drake's radio car. Sergeant Parker saw the Suspect standing with a handgun inside his waistband. Sergeant Parker said the gun looked like a forty-five caliber automatic. The grips of the gun were facing to the right. Sergeant Parker holstered his weapon and was waiting for the AR-15 rifle. He also saw five Deputies with their weapons pointed at the Suspect. The Suspect suddenly faced him and the Deputies, retrieved the handgun from his waistband, and pointed at him and the Deputies. The Deputies immediately fired their weapons at the Suspect. Sergeant Parker estimated less than fifteen rounds were fired within five seconds. Deputy Welch broadcasted over the Sheriff's radio that a shooting had occurred and the Suspect was down. Deputy Welch also requested the Fire Department for the Suspect.

Sergeant Parker saw the Suspect fall to the ground and then checked on the Deputies. He made sure everyone was okay and then formed a team to check the Suspect and clear the RV trailer. Sergeant Parker and Deputy Cox were assigned to clear the RV trailer and Deputy Welch was assigned to watch the Suspect as they approached. Sergeant Parker checked the Suspect and saw that he was still breathing and had several gunshot wounds to his torso. Sergeant Parker requested Deputy Wong to retrieve a first-aid kit and assist the Suspect.

Deputy Wong arrived and checked the Suspect's vital signs and could not locate a pulse or a heartbeat. Sergeant Parker said he and Deputy Cox cleared the RV trailer. Sergeant Parker located the Suspect's gun inside a black barrel, next to the Suspect's location. Sergeant Parker looked at the gun and realized it was a BB pistol. Sergeant Parker said the Fire Department was delayed because they were stuck behind a train.

Deputy Brian Wong

The following summary is from the audio portion of the interview with Deputy Wong with Sheriff's Homicide Investigators Sergeant Randy Semour and Kathleen Gallagher on Tuesday, August 29, 2006. Refer to **Exhibit A,** inside Homicide Book **pages 36-38** for the Homicide Investigator's written summary.



On Monday, August 28, 2006, Deputy Wong was working Unit 63 PMs from [redacted] Deputy Wong was the handling unit dispatched to the "Man with a Gun" call. Deputy Wong, along with assisting units (Michael Marion Unit 61B PM's, and Thomas Drake Unit 61 PM's) contacted the Witnesses at the location. After determining the Suspect had a gun and pointed it at Witnesses [redacted] and [redacted] the Deputies, along with Sergeant Parker, Unit 60S PMs, devised a tactical plan.

It was determined that Witness [redacted] would direct the Deputies and Sergeant Parker to a dirt ridge above the RV trailer. While at the dirt ridge, Deputies Moylan and Cox Unit 61A PM's and with Deputy Welch Unit 66 PM's arrived. Sergeant Parker directed Deputies Moylan and Cox to follow a dirt access road to determine if it led to the RV trailer. As he was standing on the dirt ridge, Deputy Wong said within a few minutes, he heard Deputy Moylan on his public address system ordering the Suspect to stand up and place his hands in the air. Deputy Wong said the commands were repeated many times. While still on the dirt ridge, Deputy Wong heard over the public address system that the Suspect had a gun. After hearing this, Deputy Wong said Sergeant Parker told him to retrieve a stunbag shotgun.

> **IAB Note:** In his interview, Sergeant Parker said Deputy Wong misunderstood. Sergeant Parker said he requested Deputy Wong to retrieve the AR-15 rifle from his Sergeant's vehicle, not the stunbag shotgun.

Deputy Wong said he then heard Deputy Marion yell out, "Back off, he has a gun." Deputy Wong feared he was in a crossfire situation standing on top of the ridge, so he backed away. Deputy Wong, believing his partners needed assistance, decided to join the Deputies at the trailer location. As Deputy Wong was on the dirt access road nearing the trailer, he continued to hear the Deputies ordering the Suspect to place his hands in the air.

Deputy Wong said he arrived a few feet behind the rear end of the radio car and saw flashes of light and heard gunfire. Deputy Wong did not see the Deputies shooting. He was focused on the RV trailer and on the lights from the weapon's barrel muzzle flashing during the shooting. Deputy Wong said he never saw the Suspect until after the shooting.

Deputy Wong estimated he heard twelve to fourteen gunshots and estimated the shooting lasted five to six seconds. After the shooting, Deputy Wong saw Sergeant

Parker also behind the radio car. He didn't remember where Deputies Drake, Marion, Moylan, Cox, and Welch were positioned during the shooting. After the shooting, Deputy Wong, Deputy Drake, Deputy Marion and Sergeant Parker cleared the RV trailer. Deputy Wong said he was directed by Sergeant Parker to administer first-aid to the Suspect. Deputy Wong was unable to locate a pulse on the Suspect. Deputy Wong said the Suspect appeared to be dead. Deputy Wong said the Fire Department was delayed because of a train. The Fire Department finally arrived and pronounced the Suspect dead at 2138 hours.

NON-DEPARTMENT WITNESS STATEMENTS:

The following witnesses' summaries are taken from their interviews with Sheriff's Homicide Bureau Investigators Sergeant Randy Semour and Kathleen Gallagher on Tuesday, August 23, 2006. Refer to **Exhibit A,** inside Homicide Book **pages 36-39** for the Homicide Investigator's written summary.

[redacted]

Witness [redacted] said she and her [redacted] arrived at their trailer earlier in the evening and saw Suspect Andre Garcia [redacted] sitting in a lawn chair next to their recreational trailer. Suspect Garcia displayed a handgun in his waistband.

Witnesses said Suspect Garcia was very drunk and had some type of an alcohol bottle in his hand. Witness [redacted] said Suspect Garcia pointed the gun at her and her [redacted] and said he was going to kill everyone. Witnesses [redacted] and her [redacted] left the location and contacted their [redacted] Witness [redacted] because he was the only [redacted] with a telephone.

Witness [redacted] was standing at the intersection of Sierra Highway and Mad Road, during the officer involved Shooting. Witness [redacted] did not see the shooting, but she heard ten to fifteen gunshots and then saw numerous police cars arriving at the scene.

[redacted]

Witness [redacted] said he and his [redacted] arrived at their trailer earlier in the evening and saw Suspect Andre Garcia sitting in a lawn chair next to their recreational trailer. Suspect Garcia displayed a handgun in his waistband.

Witness [redacted] said Suspect Garcia was very drunk and had some type of an alcohol bottle in his hand. Witness [redacted] said Suspect Garcia pointed the gun at him and his wife and said he was going to kill everyone. Witnesses [redacted] and his [redacted] left the

location and contacted their [redacted] Witness [redacted] because he was the only [redacted] with a telephone.

Witness [redacted] was standing at the intersection of Sierra Highway and Mad Road, during the officer involved shooting. Witness [redacted] did not see the shooting. He heard ten to fifteen gunshots and then saw numerous police cars arriving at the scene.

[redacted]

Witness [redacted] was requested by the Deputies to guide them to the dirt plateau ridge, which overlooked the RV trailer. Witness [redacted] was directed to stay inside a radio car, a distance away from the edge of the dirt ridge. Witness [redacted] said while he was inside the radio car, he saw an unmarked Sheriff's vehicle arrive with two deputies inside. A few minutes later, he heard Deputies giving commands in English and Spanish to the Suspect. Witness [redacted] heard someone say something about a pistol and "Show me your hands." Witness [redacted] said he heard the commands being given at least ten times. After the commands, Witness [redacted] said he heard about five to ten gunshots that lasted about five seconds. Witness [redacted] speculated he heard both pistol and shotgun gunfire. After the shooting, Witness [redacted] heard the Deputies talking but was unable to hear what they were saying. Witness [redacted] said he never saw the Deputies or the Suspect. He later saw the Fire Department and Ambulance arrive at the scene.

SUSPECT STATEMENT:

None - deceased.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE MAURIZI • Director

DA #11228 6-27-07

June 19, 2007

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. # 06-0527
L.A.S.D. # 006-14515-0627-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 28, 2006, fatal shooting of Andres Garcia by Deputies Thomas Drake, Michael Marion, Charles Moylan, Billy Cox and Richard Welch of the Los Angeles Sheriff's Department (LASD). We find that the deputies acted lawfully in self-defense and defense of others.

The following analysis is based upon the reports relating to this matter submitted to this office on February 28, 2007, by Detective Richard Tomlin of the LASD, Homicide Bureau. The District Attorney's Command Center was notified of this incident at 10:40 p.m. on August 28, 2006. The District Attorney Response Team, consisting of Deputy District Attorney Christian Gullon and Senior Investigator [redacted] was notified by the Command Center and responded immediately to the scene. They were given a briefing and a "walk-through" of the scene by investigators. The deputies gave voluntary statements which were reviewed and considered in our analysis.

FACTUAL ANALYSIS

On August 28, 2006, at approximately 8:30 p.m., [redacted] and [redacted] and [redacted] were returning to their home after having dinner with a [redacted] The [redacted] live in a recreational vehicle, "5th wheel," trailer which is parked adjacent to oil fields located at [redacted] The trailer is at the end of a dirt road on rugged terrain with no lighting nearby. When they arrived at their trailer they noticed that Garcia was inside. Garcia had previously been [redacted] while her [redacted] was in the hospital. [redacted] asked Garcia to leave immediately. Garcia refused and raised his shirt exposing a gun in his

waistband. Garcia told [redacted] that he was leaving with his [redacted] tonight. The [redacted] were able to walk to their [redacted] trailer and contacted the LASD.

The above mentioned deputies all responded to the location. Because of the terrain and lack of light it was decided that deputies Charles Moylan and Billy Cox would approach the trailer first. They approached the trailer in their police vehicle and illuminated the trailer with their high beam headlights and spotlights. Garcia was seated in a lawn chair outside the trailer. The deputies ordered Garcia in both English and Spanish to stand up and put his hands in the air. Garcia waived his hands in the air in a dismissive manner and repeatedly yelled "fuck you" at the deputies.

Believing Garcia to be unarmed Deputy Cox went to retrieve a Taser from the trunk of the car. At that time, Garcia stood and faced the deputies. Deputy Moylan saw that Garcia had a handgun in his waistband and alerted all the deputies. Moylan armed himself with his service weapon and Cox armed himself with a shotgun. Deputies Drake, Marion and Welch arrived at the trailer and also armed themselves. Drake and Marion were armed with department issued shotguns. Welch armed himself with his sidearm.

Deputies repeatedly ordered Garcia to put his hands in the air. Garcia refused to comply with the deputies' commands and drew his gun from his waistband and pointed it at them. Each deputy was in fear for his life and the life of his fellow deputies. All the deputies fired their respective weapons. Garcia was struck multiple times and fell to the ground. Garcia died at the scene. Garcia's gun was found near his body and, upon inspection, it was determined to be a "Daisy BB" gun.

On August 31, 2006, an autopsy was performed on the body of Andres Garcia by the Los Angeles County Coroner's Office. Deputy Medical Examiner Ajay J. Panchal determined the cause of death to be multiple gunshot wounds.

CONCLUSION

According to the law in California, the use of deadly force in self-defense or in the defense of others is justifiable if the person claiming the right to use self-defense actually and reasonably believed (1) that he or she or the person who he or she was defending was in imminent danger of death or great bodily injury, and (2) that it was necessary under the circumstances to use deadly force to avoid such imminent death or great bodily injury. *California Jury Instructions --- Criminal* 5.12 *et. seq.*

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo, (1948) 85 Cal.App.2d 577.